

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 3:22-cr-05349-BHS

ORDER

JOSEPH DUANE FOLKERTS,

Defendant.

This matter is before the Court on Defendant Joseph Folkerts's Motion for Early
termination of Supervision. Dkt. 5. The Honorable Michael Mosman, United States
District Judge for the District of Oregon, sentenced Folkerts to 48 months in prison
followed by five years of supervised release after he pled guilty to one count of
Conspiracy to Commit Murder in the Course of a Robbery, and one count of
Conspiracy to Commit Arson. This charge arose from
Folkerts disposing of the body of a person that the Gypsy Joker motorcycle gang
had killed. At the time of the offense, Folkerts was a member of the gang.

Folkerts's term of supervision began on June 27, 2022, and is set to expire on June 26, 2027. On January 3, 2023, the Court accepted a transfer of jurisdiction over

1 Folkert from the District of Oregon. Dkt. 1. Folkerts's motion for Early Termination of
2 Supervision is therefore properly before this Court.

3 The United States Probation Office technically opposes early termination of
4 supervision. Dkt. 7. It concedes that Folkerts presents a low risk to reoffend and "has
5 performed well on supervision and is deserving of our commendation," but ultimately is
6 "unable to endorse early termination" of supervision because of the nature of his offense
7 and the limited amount of time Folkerts has served under supervision. *Id.* at 2.

8 The Government also opposes terminating supervision early. Dkt. 8. It too
9 concedes that Folkerts has been compliant on supervised release. *Id.* at 3. It argues
10 however that he already received a sentence that was 50 months below the United States'
11 recommendation, and that terminating supervision early would not adequately reflect the
12 seriousness of the offense or provide adequate deterrence. *Id.* at 2–3.

13 The Court concludes that early termination of supervised release is appropriate. 18
14 U.S.C. § 3583(e)(1) authorizes the Court to terminate a term of supervised release after a
15 defendant has served one year of supervision if the Court is satisfied that such action is
16 warranted by the conduct of the defendant and after considering the factors set forth
17 under §§ 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7). Both
18 Probation and the Government's opposition to release essentially rests on
19 subsection(a)(1), which concerns "the nature and circumstances of the offense and the
20 history and characteristics of the defendant," and subsection (a)(2)(B), which addresses
21 "the need for the sentence imposed . . . to afford adequate deterrence to criminal
22 conduct." Neither the Government nor Probation discuss any of the other factors.

1 In analyzing all the factors together, the Court concludes that early termination is
2 warranted. Critically, subsection (a)(2)(C), which concerns “the need for the sentence
3 imposed to protect the public from further crimes of the defendant,” weighs in favor of
4 early termination. Folkerts has no criminal history and he had a minor role in the offense.
5 The psychological report concluded that he does not pose a risk of violence to family or
6 community. The Court finds that continued supervised release is unlikely to provide a
7 general deterrence in these circumstances. 18 U.S.C. § 3553(a)(2)(B).

8 With regard to § 3553(a)(6), which addresses “the need to avoid unwarranted
9 sentence disparities among defendants with similar records who have been found guilty
10 of similar conduct,” the Court is influenced by the additional consideration under §
11 3553(a)(5) of the 2018 policy statement.¹ The policy statement encourages early
12 termination of supervision for persons who, among other factors, are not career criminals,
13 engage in pro-social behaviors, present no identified risk of harm to the public, and are
14 free from court-reported violations for over a 12-month period on release. The policy
15 statement instructs that, “[a]fter 18 months, higher risk persons under supervision who
16 have demonstrated a risk reduction (as demonstrated by a reduction in [the Post
17 Conviction Risk Assessment] level/category) and who are in substantial compliance with
18 the factors provided above *must* be considered for early termination.” Guide to Judiciary
19 Policy, *supra*, § 360.20(d) (emphasis added). Folkerts meets these criteria. He has served
20 18 months of supervision without any violations, has no criminal history, and does not

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22 ¹ Guide to Judiciary Policy, Vol. 8, Part E § 360.20, as amended in 2018.

1 present a risk to the public. The 2018 policy statement weighs heavily in favor of early
2 termination of supervision in his case.

3 Accordingly, it is hereby **ORDERED** that the Motion for Early Termination of
4 Supervised Release, Dkt. 5, is **GRANTED**.

5 Dated this 21st day of February, 2024.

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8 BENJAMIN H. SETTLE
9 United States District Judge
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